

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA	§	
	§	
v.	§	CRIMINAL NO. 4:05CR198 MAC/KPJ
	§	
RANDY SHAW (11)	§	

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the Government's request for revocation of Defendant's supervised release. After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on December 20, 2016, to determine whether Defendant violated his supervised release. Defendant was represented by Frank Henderson The Government was represented by Kevin McClendon.

On July 18, 2006, Defendant was sentenced by the Honorable Ron Clark, United States District Judge, to a sentence of eighty two (82) months imprisonment followed by a four (4) year term of supervised release for the offense of Conspiracy to Manufacture, Distribute or Possess with Intent to Manufacture, Distribute or Dispense Methamphetamine. Defendant began his term of supervision on October 23, 2012. This case was transferred to the Honorable Marcia A. Crone on January 16, 2013.

On October 19, 2016, the U.S. Probation Officer filed a Petition for Warrant or Summons for Offender under Supervision (the "Petition") (Dkt. 453). The Petition asserts that Defendant violated the following conditions of supervision: (1) Defendant shall not commit another federal, state, or local crime; (2) Defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician; (3) Defendant shall abstain from the

consumption of alcohol and all other intoxicants during the term of supervision.

The Petition alleges that Defendant committed the following violations: (1) On November, 7, 2015, Defendant was arrested for the Class A misdemeanor offense of Driving While Intoxicated BAC ≥ 0.15 by Denton, Texas, Police Department. Defendant was subsequently released on a \$2,500 bond. This case remains pending under Docket Number CR-2016-02952-C in the Denton County Criminal Court #3, and Defendant is scheduled to return to court on November 9, 2016. On October 16, 2016, Defendant was arrested by the Denton, Texas, Police Department for the Class A misdemeanor offense of Driving While Intoxicated BAC ≥ 0.15 . Defendant is currently in custody at the Denton County jail. According to the offense report, Defendant verbally admitted to having consumed one pint of beer prior to his arrest. Additionally, the report indicates Defendant had a blood alcohol content level of 0.163 and 0.155. As of the writing of the petition, this charge remains pending.

At the hearing, Defendant entered a plea of true to the alleged violations. Defendant waived his right to allocute before the district judge and his right to object to the report and recommendation of this Court. The Court finds that Defendant has violated the terms of his supervised release.

RECOMMENDATION

Pursuant to the Sentencing Reform Act of 1984, and having considered the arguments presented at the December 20, 2016, hearing, the Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of ten (10) months, with no supervised release to follow, to run concurrently to any other sentence being served. The Court further recommends that Defendant's term of imprisonment be carried out in FCI, Fort Worth, if appropriate.

SIGNED this 21st day of December, 2016.

A handwritten signature in black ink, appearing to read 'KLPJ', written over a horizontal line.

KIMBERLY C. PRIEST JOHNSON
UNITED STATES MAGISTRATE JUDGE